

poses to be valid, and sets up his proceedings in the Superior Court for Baltimore city, for the administration of his trust under the direction of that court, and insists in his answer that such proceedings were right and proper, and that the funds in his hands should be distributed under its order.

I take it, therefore, to be clear, that I have no power to make an order upon him to bring in or pay over this money in satisfaction of the decree in favor of these plaintiffs, he being an unwilling party, resisting the application, and setting up a conflicting title; and the only question is, whether, under the circumstances of the case, it would be proper in the court to authorize the institution of proceedings at law or in equity to enforce the sequestration?

The practice in this respect is not, perhaps, altogether free from doubt, (2 *Daniel*, 1262,) but conceding it to be otherwise, I still think that in this case it would be wrong to enforce it.

It has already been stated that Mr. Ward, the grantee in the deed from Royston Betts, filed a report in the Superior Court of Baltimore city on the 6th of January, 1853, asking that the trust reposed in him might be administered under its direction, and that the creditors of Betts should be notified to produce their claims preparatory to a distribution of the trust fund, and that upon this application the court passed an order calling them in by a day named for that purpose. There can be no doubt, therefore, that the Superior Court, by passing this order, undertook to direct the administration of the trust, and that it will proceed to do so unless restrained by some tribunal having authority to interpose.

It is supposed that in making this application, the trustee considered himself acting in obedience to the provisions of the act of 1845, ch. 166, but it is insisted on the part of the complainants, that this act does not embrace a deed of this description to which recording is not necessary.

I do not consider it very essential to inquire whether this deed does fall within the spirit and intent of the statute, though in view of its object, I think it would be proper to give it a construction large enough to embrace it. But whether this be so or not, there can be no doubt that a trustee appointed by a